

Application No.: 09/877,645
Applicant : CABEDO-DESLIERRES et al.
Examiner : Shay L. Balsis
Amdt. Mailed May 12, 2004
Reply to Off. Action mailed 02/13/2004

LIST OF ENCLOSURES

- Letter to the Commissioner of Patents - 6 pages
- Abstract (marked-up version and clean version) - 2 pages
- Detailed Description of the Invention - "SPEC" (marked-up version and clean version)
- 7 pages
- Claims - (marked-up version and clean version) - 4 pages
- List of Part Numbers - marked-up version and clean version) - 2 pages
- Amended Drawing Figures - 1 page
- Brief Description of Several Views of Drawings - 1 page
- DRAWINGS - 1 page
- 4 Photos - 2 pages.
- 1 Postcard self-addressed

Mailed on May 12, 2004 (11 ER984333398US) Expre Mail


MARIA R. CABEDO-DESLIERRES

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TC/A.U. : 1744

Commissioner for Patents

Mailed on 5/12/2004

P.O. Box 1450

Alexandria, VA 22313-1450

Sir,

Upon receipt of the Office Action above referenced, the Applicants got in touch with the Examiner who very attentively explained in full detail her decision object of said Office Action. Then, the Applicants were advised to respond said Office Action presenting their reasons against the arguments of obviousness in order to show that, in fact, their invention has the condition of non-obviousness over the three patents cited as prior art.

As only Claims 1-4 are still pending in the application, the Applicants have rewritten these **Claims** (with a marked-up version and a clean version) as being an independent Claim 1 and 8 Dependent Claims : a), b), c), d), e), f), g), h). NO NEW MATTER WAS ADDED.

For the same reason, i.e. because only Claims 1- 4 are still pending, it was necessary to present corrected **Abstract** (with a marked-up version and a clean version), corrected **Detailed Description of the Invention** -currently called Spec, (with a marked-up version and a clean version) a full page of applicable **Drawings** with the respective **Amended Drawing Figures, List of Part Numbers** (with a marked-up version and a clean version), and a **Brief Description of the Several Views of the Drawings** . NO NEW MATTER WAS ADDED.

In the next pages, the Applicants are rebutting in detail the arguments of **Obviousness** presented in each case of prior art, as mentioned by the Examiner.

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Applicants' reasoning against the argument of obviousness presented against this Application:

No. 1

Patent #5,046,212, by James R. **O'Conke**, teaches a toothbrush that contains:

1. a curved bristle head at one end of a single body that extends to the extremity thereof;
2. a retractable, rigid, fixed and not rechargeable, curved toothpick mounted in a cavity existing in the extreme half part of a single shaped handle;
3. the rigid toothpick has a projection tab capable of extending and retracting the tool beyond the end of the single shaped handle;
4. the terminal curve of the toothpick adjust to the curved terminal end of the handle without any cap to avoid contamination;
5. the toothpick has no extension tube attached to the terminal end. Number (31) is indicated as being the toothpick itself. In fact, there is no need for an extension tube because the toothpick is not rechargeable.

The present application is non-obvious relating to **O'Conke's** patent in that :

- a) the device is not formed by a single body extending from a curved bristle head to the extremity of the handle, like in O'Conke's;
- b) the handle is comprised of two hollow cylinders that run side by side, parallel to each other;
- c) contained within each cylinder there is a slider that is attached to an extension tube for holding each periodontal tool, and extending it out of each cylinder, for use;
- d) each slider is moved horizontally along each cylinder that forms the handle, by a button, not a projection tab like in O'Conke, and there is one button on each side of the handle;
- e) a slit in the sidewall of each cylinder guides and controls the slide movement, extension movement, travel through the interface of the button to the slider. The two buttons are independent, and each extends and retracts one periodontal tool;
- f) the extension tubes provide replacement capability for the tools attached to their ends;
- g) each cylinder that forms the handle protects the dental tool contained inside and, to endcap each tube, there is a close-out cap with a hinge attached to the end of the handle so that they do not get loose;
- h) the extension movement of each slider, when its button is pushed, opens the respective protective close-out cap that remains attached by its hinge, during the use of the periodontal tool, to avoid loss.

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Applicants' reasoning against the argument of obviousness presented against this Application

No. 2

Patent #5,097,852 by Tzung-I Wu, teaches a toothbrush containing one dental floss cavity inside the handle showing:

1. the sole cavity in the handle provides an exposed arm for the floss and the access to the floss arm is achieved by a removable loose piece end, thimble like cover,
2. the floss tool arm only moves a short distance, back and forth, by means of a molded projecting knob member that moves in a cutout opening in the handle.
3. Once the loose cover is removed from the handle, the full accessory tool is exposed,
4. the projecting knob is used to control the movement of the floss in the mouth.

The present patent application is non-obvious relating to e Wu's patent whereas:

- a) the extension and retraction of each of the the periodontal tools is done from within each cylinder of the handle, and the tool is not exposed just by removal of the respective cover;
- b) two buttons (not knobs that are part of the body of the periodontal tool, as in Wu's), are shown one at the top of the device and the other one at the bottom, and guide the travel, extension, protective retraction and closeout of the periodontal tools within the cylinders;
- c) the movement of the two periodontal tools inside each of the cylinders that form the handle is guided by the slider that bears against the inner wall of the cylinders.

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Applicants' reasoning against the argument of obviousness presented against this Application

No. 3

Relating to Patent 1,487,075, of H.H. **Olson** et al, it shows:

1. the toothbrush end has two brush heads;
2. the dental tools are contained in a double cavity on one side of the toothbrush;
3. the dental tools are housed in "Jack-knife" fashion;
4. the tools have to be rotated around a pin joint and fold out and into the side cavity;
5. the tools do not have any lid that protect them from contamination;
6. the handle changes its format, blending from a curved shape into a flat, rectangular, shape.

The present patent application is non-obvious relating to Olson's patent whereas:

- a) it contains its dental tools inside two parallel cylindrical units that form the handle of the toothbrush;
- b) both tools do not come out from cavities at one side of the handle (as in Olson's) but from the end of the handle;
- c) the tools do not rotate around a pin for use, (as in Olson's), but extend and retract from each tube by means of a button existing at the top and at the bottom of the double cylindrical handle;
- d) the tools are extended and retracted with a button that engages a slider within each cylinder;
- e) the handle has a consistent double cylindrical shape for full accommodation of the periodontal tools (doesn't change shape as in Olson's) ;
- f) at the end of the handle a lid closes each cylinder to avoid contamination to the periodontal tools contained therein.

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In conclusion,

the Applicants strongly believe that the pre-existence of the three references indicated as cause of rejection of the present application do not determine obviousness, lack of novelty or imminent similarity.

All three patents teach toothbrushes that have in common the characteristic of hiding extra dental tool in the handle (only one of them has two dental tools - pin rotated) , and because of some diversity and non-obviousness among them, they can coexist.. It should be considered here the German so called "Theory of the Distances" that teaches: "the same distance that exists among the previous patents will be established in connection with this new invention". In fact, the first patent dates from 1924 (Olson), and when O'Conke came with his invention, it was not considered as "obvious" compared to Olson's, in spite of having in common the toothpick coming out of the end of the handle, inasmuch as it showed some distinctiveness, and a patent was granted in 1991. Then came Wu, and in spite of showing a knob member to move the tool, exactly as O'Conke did, Wu's invention reveals distinctiveness, was not considered as "obvious" and a patent was granted in 1992.

There is no shadow of obviousness projected by the cited patents to touch this new patent application because it is sufficiently distinct and above all, it possesses the requirement of NOVELTY in more than one element, as follows:

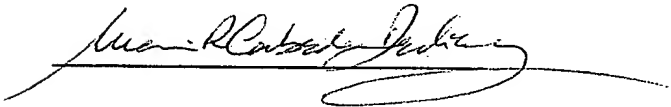
- a) None of the cited prior art shows the entire handle in a double cylindrical configuration;
- b) none of the cited prior art teaches two separate, independent, cylindrical locations for the periodontal tools;
- c) none of the cited prior art teaches caps to protect the periodontal tools from contamination, with a hinge to avoid loss;
- d) none of the cited prior art teaches two buttons, not being part of the tools, to extend and retract the periodontal tools (on O'Conke the toothpick has in its body a projection tab for movement, not a button, and on Wu there is a knob member molded on to the side of the floss holder, not a button);
- e) none of the cited prior art teaches each of the sliders inside the cylinders containing an extension tube for holding the tools and extending them out of the cylinders, for use;
- f) none of the cited prior art teaches replacement capability of the periodontal tools;
- g) none of the cited prior art teaches extension tubes providing replacement capability for the periodontal tools attached to their ends.

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Those skilled in the art would find it physically impossible to combine the referenced prior art to achieve the final results of the present application, even if combined with awkward combinative steps, and would not meet the claims hereon. This shows the inexistence of obviousness.

Therefore, Claim 1 is resubmitted to be allowed over the cited references and reconsideration and allowance is respectfully solicited.

In consideration and respect,

A handwritten signature in cursive script, appearing to read 'Maria R. Cabedo-Deslierres', written over a horizontal line.

MARIA R. CABEDO-DESLIERRES

P.S. The Applicants request permission to enclose 2 pages of photos of the prototype of this Invention.